

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 72633

Deanna Roberts
Earl G. Cleaver

8160 Kavanagh Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on March 31, 2010, for a Hearing on a citation for violations of the Baltimore County Code (BCC) section 13-7-306, 307; 35-5-302 (A)(B), failure to maintain premises in a rat free condition, failure to eliminate rat harborage; section 12-3-106, failure to remove animal feces on a daily basis; section 13-4-201 (b)(d), failure to store garbage in watertight containers with tight fitting lids; section 35-5-302 (b)(1), failure to repair rain spout in the rear of the house on residential property known as 8160 Kavanagh Road, 21222.

On March 2, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Ray Harmon issued a Code Enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$3,000.00 (three thousand dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on January 13, 2010 to cease rat infestation and eliminate rat harborage and burrows from this residential property. This Citation was issued for failure to cease rat infestation and failure to eliminate rat harborage and burrows; this Citation was also issued without prior correction notice for failure to remove animal feces daily, failure to store garbage in cans with tight fitting lids, and failure to repair rear rain gutter, pursuant to the Department's adopted criteria, to a property owner who has consistently violated the same code within the year or consecutive years. BCC Section 3-6-205.

B. Respondents have been issued multiple Citations and Correction Notices for similar code violations in 2006, 2007, 2008, and 2009. Despite multiple notices and imposition of civil penalties, violations have not been corrected. Review of court records shows this property is currently in foreclosure proceedings. Respondents did not appear for this Hearing and have not responded to the County's notices.

C. Photographs in the file show the horizontal gutter has been hanging off the back of the row house since at least May 2008. This violates County Code Section 25-5-302 ("In order not to pose a threat to the health, safety, or welfare of the occupants or immediate neighbors of an owner-occupied housing unit, the property owner shall maintain ... gutters ... in good repair.").

D. Photographs in the file show numerous piles of dog feces in the yard. Failure to clean up dog feces violates prohibitions against accumulation of garbage on residential property, and creates food for rats. Respondents must clean up the dog feces on a daily basis. BCC Section 13-7-309, Section 13-7-310. Collected feces must be properly stored in the same manner as garbage, in waterproof cans with tight-fitting lids. BCC Section 13-4-201.

E. Photographs in the file show numerous rat holes in the yard, with several along the chain link fence at the edge of concrete paving. The property owners have not responded to the County's notices and there is no evidence that Respondents have taken appropriate action to exterminate the rats. County law requires a property owner or occupant to treat a rat infestation until the rats are

eradicated. BCC Section 13-7-305. County law also requires property owners and occupants to remove and abate rat harborage, including closing rat burrows. BCC Section 13-7-306.

F. Photographs in the file show bagged garbage on the ground and in containers without lids. Reinspection on March 29 found bagged garbage, junk, trash and debris on the ground in the alley. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$500.00 (five hundred dollars).

IT IS FURTHER ORDERED that the County is authorized to enter the property for the purpose of removing all junk, trash, debris, animal feces, and garbage from the yard and alley, at the expense of the property owners.

IT IS FURTHER ORDERED that the County is authorized to enter the property for the purpose of exterminating the rat infestation, at the expense of the property owners.

IT IS FURTHER ORDERED that the County is authorized to enter the property for the purpose of repairing the broken rear rain gutter, for the protection of the Respondents' property and for the protection of their adjoining neighbors, at the expense of the property owners.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 5th day of April 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

MZF/jaf